

## MAGISTRATE JUDGE CREATOR

FILED                  LODGED  
RECEIVED

DEC 05 2011

CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA, ) NO. CR11-5373  
Plaintiff, ) FINDINGS AND ORDER ACCEPTING  
vs. ) DEFENDANT FOR DEFERRED  
BOBBY R. TRAYWICK, ) PROSECUTION, APPROVING  
Defendant/Petitioner. ) TREATMENT PLAN, AND DIRECTING  
 ) DEFENDANT TO TAKE TREATMENT  
 ) AS PRESCRIBED  
 )  
 ) (Clerk's Action Required)

THIS MATTER, coming on for hearing this 5th day of December, 2011 upon the defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, John R. Carpenter, Assistant Federal Public Defender; the United States of America being represented by Cpt. Alexander H. Kwon, Special Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Social Treatment Opportunity Program (STOP) and the treatment opportunities available to Petitioner through the Department of Veterans Affairs, and the files and records herein, being fully advised in the premises, does now make and enter the following:

1

11

## I. FINDINGS OF FACT

A. On or about the 8th day of April, 2011, Petitioner was charged with the offenses charged in the Information. These offenses occurred as a direct result of alcoholism/chemical dependency problems;

**B.** Petitioner suffers from an alcohol/drug problem and is in need of treatment;

C. The probability of similar misconduct in the future is great if the problem is stated:

D Petitioner is amenable to treatment:

E. An effective rehabilitative treatment plan is available to Petitioner through the Department of Veterans Affairs, and Petitioner agrees to be liable for all costs of this treatment program:

F. That Petitioner agrees to comply with the terms and conditions of the program set forth in the diagnostic evaluation from STOP, attached to Statement of Petitioner filed herewith. As an Army veteran, Petitioner agrees to obtain treatment through the Department of Veterans Affairs:

G. That Petitioner has knowingly and voluntarily stipulated to the admissibility and sufficiency of the facts as contained in the written police report attached to Statement of Petitioner filed herewith.

H. That Petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing or trial on the underlying offense or offenses held subsequent to revocation of this Order Granting Deferred Prosecution and that these reports will be used to support a finding of guilt:

From the foregoing FINDINGS OF FACT, the Court draws the following:

11

11

111

## II. CONCLUSIONS OF LAW

A. That the above-entitled Court has jurisdiction over the subject matter and Petitioner Bobby Traywick, in this case;

B. That Petitioner's Petition for Deferred Prosecution meets the requirements of RCW 10.05 et seq.;

C. That the diagnostic evaluation and commitment to treatment meets the requirements of RCW 10.05.150;

D. That Petitioner is eligible for deferred prosecution.

### III. ORDER

Having made and entered the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is hereby

ORDERED that the defendant is accepted for deferred prosecution. The prosecution of the above-entitled matter is hereby deferred for five (5) years pursuant to RCW 10.05 et seq., upon the following terms and conditions:

A. Petitioner shall be on probation for the deferral period and follow the rules and regulations of probation;

B. Petitioner shall enroll in and successfully complete the two-year treatment program recommended by STOP according to the terms and conditions of that plan as outlined in the diagnostic evaluation, a true copy of which is attached to the Petition and incorporated herein by reference. Petitioner shall receive his treatment through the Department of Veterans Affairs and shall not change treatment agencies without prior Probation approval;

C. The treatment facility, the Department of Veterans Affairs, shall file with the United States Probation Office status reports of Petitioner's compliance with treatment, monthly during the first year of the deferred prosecution period and every three (3) months during the second year. The Court may increase the frequency of these reports at its discretion;

1           D. Petitioner shall notify U.S. Probation within 72 hours of any residence change;

2           E. Petitioner shall abstain during the deferred prosecution period from any and all  
3 consumption of alcoholic beverages and/or non-prescribed mind-altering drugs;

4           F. Petitioner shall not operate a motor vehicle on the public highways without a valid  
5 operator's license and proof of liability insurance sufficient to comply with the state laws on  
6 financial responsibility;

7           G. Petitioner shall be law abiding and shall not commit any alcohol/drug related  
8 offenses or other criminal offenses during the period of deferral;

9           H. Petitioner shall notify U.S. Probation within 72 hours of being arrested,  
10 questioned, or cited by Law Enforcement;

11          I. In the event that Petitioner fails or neglects to carry out and fulfill any term or  
12 condition of his treatment plan or violates any provision of this Order or any rule or  
13 regulation of his probation officer, upon receiving notice, the Court shall hold a hearing to  
14 determine why Petitioner should not be removed from deferred prosecution and prosecuted  
15 for the offense/offenses charged;

16          J. In the event the Court finds cause to revoke this deferred prosecution, the  
17 stipulated police reports shall be admitted into evidence, and Petitioner shall have his guilt or  
18 innocence determined by the Court;

19          K. That the Statement of Petitioner for Deferred Prosecution shall remain sealed, and  
20 all subsequent reports or documents relating to his treatment information shall be sealed, to  
21 maintain confidentiality of Petitioner's treatment information;

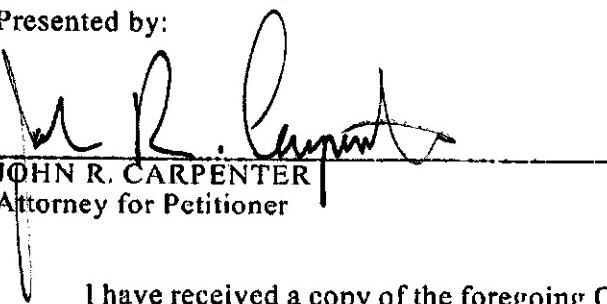
22          L. That the Department of Licensing be notified of this Order accepting the  
23 Petitioner for deferred prosecution;

24          M. Upon proof of Petitioner's successful completion of five years' deferral period in  
25 this Order, the Court shall dismiss the charges pending against Petitioner.

1 N. Additional conditions: See attached 13  
2 recommended conditions  
3 \_\_\_\_\_  
4 \_\_\_\_\_

5 DONE IN OPEN COURT this 5th day of December, 2011.  
6  
7  
8  
9

  
UNITED STATES MAGISTRATE JUDGE

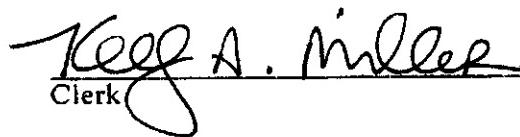
10 Presented by:  
11   
12 JOHN R. CARPENTER  
13 Attorney for Petitioner

14 I have received a copy of the foregoing Order of Deferred Prosecution. I have read and  
15 understand its contents, and agree to abide by the terms and conditions set forth herein.  
16  
17

18 DATED: December 5th, 2011.

  
BOBBY R. TRAYWICK  
Petitioner

21 I certify that a copy of this signed Order was mailed to the subject treatment facility, on  
22 December 9, 2011. The United States Probation Office was also furnished a copy  
23 of this Order.

  
Keeg A. Miller  
Clerk

FINDINGS AND ORDER ACCEPTING DEFENDANT  
FOR DEFERRED PROSECUTION - 5

FEDERAL PUBLIC DEFENDER  
1331 Broadway, Ste. 400  
Tacoma, Washington 98402  
(253) 593-6710

**SENTENCING RECOMMENDATION**

United States District Court  
Western District of Washington

United States v. Bobby R. Traywick  
Docket No. CR11-5373CVB-001

**GUIDELINES:**

Total Offense Level	<u>4</u>
Criminal History Category	<u>II</u>
Imprisonment Range	<u>30</u> days to <u>6</u> months
Supervised Release Range	<u>1</u> year
Probation	<u>1</u> to <u>5</u> years
Fine Range	<u>\$1,120.50</u> to <u>\$5,000</u>

**RECOMMENDATION:**

Custody	<u>None</u>
Probation	<u>5 years</u>
Restitution	<u>N/A</u>
Fine	<u>None</u>
Special Assessment (Paid: <u>X</u> No <u>  </u> Yes)	<u>None</u>
Voluntary Surrender	<u>N/A</u>

It is respectfully recommended that sentence be imposed as follows:

The defendant is placed on Deferred Prosecution under RCW 10.05.

It is further recommended the defendant be placed on probation for a period of five years, subject to the following conditions of deferred prosecution:

1. You shall not leave the judicial district without permission of the court or probation officer;
2. You shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;

**PSI SENTENCING RECOMMENDATION**

**United States v. Bobby R. Traywick**

**Docket No. CR11-5373CVB-001**

**Page 2**

3. You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. You shall support your dependents and meet other family responsibilities;
5. You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. You shall notify the probation officer within seventy-two hours of any change in residence or employment;
7. You shall abstain from the use of alcohol or other intoxicants, and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician; You shall submit to one drug and/or alcohol test within 15 days of placement on probation (or release from imprisonment) and at least two periodic drug and/or alcohol tests thereafter not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).
8. You shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. You shall initiate, maintain, and successfully complete the two-year treatment program recommended by the evaluation report, according to the terms and conditions of that plan and the recommendations of the treating agency;
10. You shall permit a probation officer to visit you at any time at home or elsewhere, and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. You shall not commit any criminal law violation and shall not commit any alcohol related offenses. You will not operate a motor vehicle without a valid operator's license and proof of liability insurance to comply with State law;
12. You shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
13. As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm your compliance with such notification requirement.